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Dog Bite Law

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Model Dog Bite Laws

This section of Dog Bite Law contains model laws for the prevention of dog bites and the protection of dog bite victims. These model laws can be used as is, or as the basis for new or improved laws in your community, county or state.

- [Model Dangerous Dog Law](#)
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Model Dangerous Dog Law

A "dangerous dog law" is a law that identifies unacceptable behavior on the part of a dog and its owners (meaning owners, harborers, keepers and custodians), establishes remedies of various sorts, and authorizes third parties to take action to control the dog and its owner. These laws may exist on the city, county and state level. They may contemplate court actions or local "dog court" hearings. Every city, county and state should have a dangerous dog law that provides sufficient protection to the community. The following is a model law by Attorney Kenneth Phillips, the author of [Dog Bite Law](#).

Model Dangerous Dog Law

by Attorney Kenneth M. Phillips

DANGEROUS DOG LAW

1. Definitions

This statute / ordinance and its sections shall be referred to as the Dangerous Dog Law.

For the purposes hereof, the following terms mean:

At large: a dog shall be considered at large if it is not under restraint as defined below.

Dangerous dog: a dog that engages in or has been found to have been trained to engage in exhibitions of fighting, or that attacks a person or domestic animal without justification causing physical injury or death, or that behaves in a manner that a reasonable person would believe poses an unjustified threat of serious injury or death to a person or domestic animal, or that has committed a nuisance three or more times.

Nuisance: a dog shall be considered a nuisance if it damages, soils, the files, or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous or offensive conditions; causes a disturbance by excessive barking or other noisemaking; or chases vehicles, or molests, threatens, attacks, or interferes with persons or other domestic animals on public property.

Owner: a person having the right of property or custody of the dog who keeps or harbors a dog or knowingly permits the dog to remain on or about any premises occupied by that person.

Restraint: a dog shall be considered under restraint if it is within the real property limits of its owner and securely confined thereon by a physical fence, or if it is secured by a leash or lead no more than 6 feet in length being held by a person capable of controlling that dog.

Serious bodily injury: a laceration to the face of a human being, laceration to another area of a person's body requiring sutures, broken or dislocated bone, permanent nerve damage, partial or total loss of use of a part of the body for a significant period of time, total disability for a significant amount of time, or death.

2. Owner Responsibility

- a. All dogs shall be kept under restraint at all times.
- b. Every dangerous dog shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.
- c. No dog shall be allowed to cause a nuisance. The owner of every dog shall be held responsible for every behavior of such dog under the provisions of this law.
- d. Dog owners shall insure that their dog carries identification at all times in the form of microchip, tag, or other means to allow easy determination of the owners.
- e. Dogs kept for the primary purpose of protecting livestock from predatory attacks shall be exempt from nuisance regulations when performing such duties on premises owned or controlled by the owner.
- f. In determining whether a violation of any of these provisions has occurred, it shall not be a defense that the dog owner was free from negligence or had taken reasonable measures to ensure compliance.

3. Impoundment

- a. Any dog that is not under restraint shall be impounded by the animal control authority having jurisdiction.
- b. When a dog is not under restraint and its ownership is verified by the animal control authority, the animal control authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the dog, unless the dog is a dangerous dog or a dangerous and dangerous and vicious dog.

d. Immediately upon impounding a dog, the animal control authority shall make every reasonable effort to notify the owner.

e. If the impounded dog does not pose a significant threat to the public health, safety and welfare, the animal control authority shall inform such owner of the conditions whereby custody of the animal may be regained. Dogs not claimed by their owners within a period of five full days in which the shelter is open to the public shall become the property of the county. To claim a dog, the owner must pay the appropriate impoundment fee, fine, penalty or license fees, and must produce proof of current vaccination against rabies.

f. If the impounded dog poses a significant threat to the public health, safety and welfare, then the animal control authority shall petition the circuit court of the county wherein the dog is owned or kept for a hearing for the purpose of determining whether or not the dog in question should be declared dangerous and vicious.

g. Upon petitioning the court, the owner shall be given notice as in civil cases that if the owner does not appear before the court and show cause why the dog should not be declared dangerous and vicious, then the dog shall be declared dangerous and vicious.

h. At the court hearing to determine whether a dog is dangerous and vicious, the court may admit into evidence all relevant evidence, including incident reports and affidavits of witnesses. A jury shall not be available. The court may find, upon a preponderance of the evidence, that the dog is dangerous and vicious and, upon such finding, shall make the orders authorized in the next section hereof.

i. In the event that the animal control authority finds dogs to be suffering, it shall have the right forth with to remove or cause to have removed any such dogs to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

j. Disposal of a dog by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

4. Dangerous Dogs

a. Whenever a dog has bitten a human being or caused a person to take defensive actions against being bitten on at least two separate occasions, or a dog trained to fight, attack, or kill has bitten a human being on one occasion, or a dog has killed a person, any person, the district attorney, or city attorney may bring an action against the owner of the dog to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by the animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, (a) a declaration that the dog is a dangerous dog, (b) the removal of the animal from the area, or (c) its destruction.

b. Any dog that comes within the definition of "dangerous dog" as defined in this Dangerous Dog Law may be declared dangerous by any court having jurisdiction. Any person, the district attorney, city attorney or the animal control authority may bring an action against the owner of the dog for this purpose. If it is determined that a dog found to be dangerous shall not be destroyed, the court shall impose upon the owners the conditions and penalties stated in paragraphs (c) through (p) herein.

c. The dog shall be properly licensed, micro chipped, and vaccinated at the owner's expense, prior to release to the dog's owner or custodian.

d. The dog, while on the owner's property, shall, at all times, be kept indoors, or in a securely fenced yard or enclosure from which the dog cannot escape, and into which children cannot trespass. It may be required that the dog be kept in an enclosure which is enclosed on all sides, with a top and a cement floor, and which is locked by a padlock. The yard or enclosure must be inspected and approved in writing by the animal control authority prior to release of the dog to its owner.

e. The dog may be off the owner's premises only if it is muzzled and restrained by a substantial leash, not exceeding six feet in length, and if it is under the control of an adult capable of restraining and controlling the dog. At no time may the dog be left unattended while off the owner's premises.

f. The owner of the dog shall immediately notify the animal control authority in the event the dog is at large, or has committed an attack on any person or animal, has been sold or otherwise disposed of, or has died.

g. The dog must complete an obedience course at the owner's expense within 60 days after release of the dog to its owner. The course shall be a course approved by the animal control authority.

h. The dog must be spayed or neutered at the expense of the owner or custodian prior to the release of the dog to its owner.

i. The dog may be required to wear a bright fluorescent yellow collar visible at 50 feet in normal daylight, which will be provided by the animal control authority at the owner's expense.

j. The owner of the dog may be required to maintain general liability insurance covering property damage and bodily injury caused by the dog, with a combined single limit of \$300,000.00 per occurrence, and may be required to show proof of such insurance within 30 days after the court has made its determination.

k. All fines and all charges for services performed by the animal control authority pursuant hereto shall be paid prior to the release of the dog to its owner, or the dog shall be deemed to be abandoned to the animal control authority.

l. The owner of a dog which has been determined to be dangerous shall pay a fine not to exceed \$500.00 for each separate basis upon which said determination was made. Said fine shall be paid to the animal control authority for the purpose of defraying its costs.

m. The owner must give written notice of the dangerous dog determination to United States Post Office (local branch) and all utility companies which provide services to the premises where the dog is kept. The owner shall provide a copy of such notice to the animal control authority within 30 days after the court determination that the dog is dangerous.

n. The owner of the dog shall post one or more signs on the premises at a location(s) approved by the animal control authority stating that a dangerous dog resides on the premises.

o. The owner of a dog which has been determined to be dangerous may be prohibited from owning, possessing, controlling, or having custody of any dog for a period of up to three years, if the court finds that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare.

p. The failure of an owner to comply with any of the conditions imposed by the court is a misdemeanor punishable by a fine not exceeding \$1,000.00 or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment. If serious bodily injury results from any such failure, it shall be a felony punishable by a fine not exceeding \$10,000 or by imprisonment for a period not exceeding 3 years, or by both such fine and imprisonment.

5. Insurance

The owner of a dog which is expected to weigh more than 30 pounds when fully grown shall provide proof that the owner is insured by a policy of liability

6. Local Laws

Nothing in the Dangerous Dog Law shall be construed to prevent a city or county from adopting or enforcing its own program for the control of dangerous dogs provided that such provisions are more restrictive upon dogs and their owners than the provisions hereof.

7. Penalties

a. The penalties stated in the Dangerous Dog Law are in addition to the penalties and remedies provided in other civil and criminal laws applicable to this jurisdiction.

b. Upon conviction of a violation of section 2 or 5 of the Dangerous Dog Law, the owner of the dog shall be fined \$100 for the first violation of any provision hereof, \$500 for the second violation, \$2,500 for the third violation, and \$5,000 for each and every subsequent violation.

c. Upon conviction of a violation of section 2 or 5 of the Dangerous Dog Law, the owner of the dog may be sentenced to confinement in the county jail for one day if it is the first conviction, up to 6 months if it is the second conviction, or up to one year if it is the third or any subsequent conviction. A single act which violates more than one provision of section 2 or 5 of the Dangerous Dog Law shall be treated as one conviction for the purposes of sentencing.

d. If the violation of section 2 of the Dangerous Dog Law results in serious bodily injury, the fines and penalties set forth herein may be tripled.

8. Relationship to Other Laws

This statute / ordinance shall not limit the civil and criminal liability of the owner and custodians of the dog.

Notes about the Model Dangerous Dog Law

The model law takes one approach to identifying and regulating dangerous dogs. However, other approaches are possible. For example, many cities have considered enacting breed specific laws. The arguments in favor of and against such laws can be found on Breed Specific Laws (linked in the prior sentence), which is a section of Dog Bite Law (www.dogbitelaw.com). Most experts, including Attorney Kenneth Phillips, do not favor breed specific laws.

Other cities have considered laws that establish three categories of regulated dogs: prohibited, restricted and dangerous. Prohibited dogs often include coyotes, wolves, dingos, and wild hybrids - animals already outlawed in many cities.

Breeds such as pit bulls and Rottweilers would be in the restricted class. The city could require their owners to take out insurance policies, build escape-proof kennels and pass an inspection by animal control officers. Restricted dogs could be upgraded to dangerous dogs if they showed a tendency for violence or were classified as dangerous by a judge.

Dangerous dogs would be defined similarly to the model law.

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Model Dog Bite Statute

A "dog bite statute" is a law that replaces the English "one-bite rule" as it applies to dog bites. Most American states have dog bite statutes. Additionally, there are cities and counties that have civil liability ordinances which are enforceable. The one bite rule has no place in modern America and therefore every state should have a dog bite statute. Care must be taken to make the law fair and reasonable. The following is a model dog bite statute by Attorney Kenneth Phillips, the author of Dog Bite Law.

Model Dog Bite Statute

by Attorney Kenneth M. Phillips

DOG BITES

1. This statute shall be known as the Dog Bite Statute.

2. The owner, harbinger or keeper of any dog shall be civilly liable for all injuries and damages suffered by any person who is bitten by the dog while in a public place or lawfully in a private place, including the property of the owner, harbinger or keeper of the dog, regardless of the former viciousness of the dog or that person's knowledge of such viciousness.

3. A person is lawfully upon the private property of such owner, harbinger or keeper within the meaning of this Dog Bite Statute when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws or postal regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner, harbinger or keeper of the dog, the owner or lessee of the property, or any person authorized to grant such permission.

4. This Dog Bite Statute shall not apply where the victim was a criminal suspect, and the dog was engaged in the performance of duties for on-duty law enforcement officers or military personnel who were acting within the written guidelines previously adopted by their agencies.

5. This Dog Bite Statute shall not apply where the dog was in, or being placed into, the custody of an animal trainer, animal behaviorist, groomer, dog walker, kennel worker, veterinarian, or an agent or employee of any of the foregoing, for the purpose of rendering a professional service in exchange for compensation.

6. Provocation shall not be a defense to liability under this Dog Bite Statute, except where the victim (a) was threatening or attempting to commit a crime of violence upon any person; or (b) caused the dog to experience physical pain and the bite was an immediate response to the pain, provided however that the dog bit the victim only once and further provided that the victim was not younger than 5 years of age.

7. The parents having custody of a minor who is the owner, harbinger or keeper of any dog shall be additionally liable parties under this Dog Bite Statute.

8. If the victim of the dog bite is a harbinger or keeper of the dog, the owner of the dog nevertheless shall be liable under this Dog Bite Statute.

9. It shall not be a defense to liability under this Dog Bite Statute that the owner, harbinger or keeper (a) exercised the utmost care to prevent the dog from biting, or (b) did not have custody or control of the dog at the time of the biting.

Notes about the Model Dog Bite Statute

The Model Dog Bite Statute is based on typical provisions in the dog bite statutes of a number of states. However, other approaches are possible.

For example, this law applies to the "owner, harborer or keeper." Many states with dog bite statutes confine liability to the owner, and do not mention the harborer and keeper.

This law specifies that the victim must be a "person." It therefore does not create a remedy in cases of damaged property or injured animals. The dog bite statutes of some jurisdictions make owners liable for damage to property (i.e., tires that are destroyed by chewing) and other animals (such as dogs belonging to neighbors). Note also, however, that some of the statutes that cover other animals specifically exclude animals such as cats, wild animals, and sometimes even other dogs.

The model law only applies to bites, not other types of accidents. For example, a dog might run against an older person, causing the latter to fall and break a hip. There are some dog "bite" statutes that cover all canine-inflicted injuries.

This law makes exceptions for a variety of canine professionals. The states are divided, however, as to whether people who work with dogs should be left without a remedy if mauled. The trend appears to be to leave our dog workers with no remedy, so the model law reflects this.

The model law provides a definition of "provocation." In dog bite law, the provocation defense is similar to comparative negligence or contributory negligence. (See *Provocation: the Myth at [How Dogs Bite](#)*, which is a section of Dog Bite Law (www.dogbitelaw.com).) The courts have struggled at times to determine what constitutes provocation. The most correct view is that provocation is an action that justifies a measured, violent response. The model law proposes essentially a limited right to self-defense on the part of the dog.

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